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COVER NOTE

From:	Mr Vítor CALDEIRA, President of the European Court of Auditors
date of receipt:	18 November 2015
To:	Mr Jean ASSELBORN, President of the Council of the European Union
Subject:	Report on the annual accounts of the ENIAC Joint Undertaking for the period 1 January 2014 to 26 June 2014 together with the Joint Undertaking's replies

Delegations will find attached the European Court of Auditors' report on the annual accounts of the ENIAC Joint Undertaking for the period 1 January 2014 to 26 June 2014.

This report is accompanied by the Joint Undertaking's replies and will shortly be published in the *Official Journal of the European Union*.

Encl.: Report on the annual accounts of the ENIAC Joint Undertaking for the period 1 January 2014 to 26 June 2014 together with the Joint Undertaking's replies.¹

¹ In English only. The other languages of this report are available on the European Court of Auditors' website: <http://eca.europa.eu/>.



EUROPEAN
COURT
OF AUDITORS

Report on the annual accounts of the ENIAC Joint Undertaking
for the period 1 January 2014 to 26 June 2014

together with the Joint Undertaking's replies

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INTRODUCTION

1. The European Joint Undertaking for the implementation of the Joint Technology Initiative on Nanoelectronics (ENIAC Joint Undertaking), located in Brussels, was set up in December 2007¹ for a period of 10 years and has worked autonomously since 2010. On 27 June 2014 ENIAC was merged with ARTEMIS Joint Undertaking² to create the Electronic Components and Systems for European Leadership Joint Undertaking (ECSEL JU)³. ECSEL JU started its activities on 27 June 2014 and will run for 10 years. As a consequence of the merger, this report covers the financial period of the ENIAC Joint Undertaking from 1 January to 26 June 2014.

2. The main objective of the Joint Undertaking was to define and implement a “research agenda” for the development of key competences for nanoelectronics across different application areas in order to strengthen European competitiveness and sustainability and allow the emergence of new markets and societal applications⁴.

3. The founding members of the Joint Undertaking were the European Union, represented by the Commission, certain EU Member States (Belgium, Germany, Estonia, Ireland, Greece, Spain, France, Italy, the Netherlands, Poland, Portugal, Sweden and the United Kingdom) and the Association for European Nanoelectronics Activities (AENEAS). Other Member States and associated countries, as well as any other country or legal entity capable of making a substantial financial contribution to the achievement of the Joint Undertaking’s objectives, could become member of the ENIAC Joint Undertaking.

¹ Council Regulation (EC) No 72/2008 of 20 December 2007 setting up the ENIAC Joint Undertaking (OJ L 30, 4.2.2008, p. 21).

² ARTEMIS Joint Undertaking was set up by Council Regulation (EC) No 74/2008 of 20 December 2007 (OJ L 30, 4.2.2008, p. 52) to define and implement a “research agenda” for the development of key technologies for embedded computing systems.

³ The ECSEL Joint Undertaking was set up by Council Regulation (EU) No 561/2014 of 6 May 2014 (OJ L 169, 7.6.2014, p. 152).

⁴ The **Annex** summarises the Joint Undertaking’s competences, activities and available resources. It is presented for information purposes.

4. The maximum EU contribution to the ENIAC Joint Undertaking, to cover running costs and research activities, was 450 million euro to be paid from the budget of the Seventh Framework Programme⁵. AENEAS was to make a maximum contribution of 30 million euro to the running costs of the Joint Undertaking. ENIAC Member States were to make in-kind contributions to the running costs (by facilitating the implementation of projects), and to provide financial contributions of at least 1,8 times the EU contribution. Research organisations participating in projects were also to provide in-kind contributions, which had to be at least equal to the combined contributions of the Commission and the Member States.

INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

5. The audit approach taken by the Court comprises analytical audit procedures, testing of transactions at the level of the Joint Undertaking and an assessment of key controls of the supervisory and control systems. This is supplemented by evidence provided by the work of other auditors (where relevant) and an analysis of management representations.

STATEMENT OF ASSURANCE

6. Pursuant to the provisions of Article 287 of the Treaty on the Functioning of the European Union (TFEU), the Court has audited:

- (a) the annual accounts of the ENIAC Joint Undertaking, which comprise the financial statements⁶ and the reports on the implementation of the budget⁷ for the period 1 January 2014 to 26 June 2014, and

⁵ The Seventh Framework Programme, adopted by Decision No 1982/2006/EC of the European Parliament and of the Council (OJ L 412, 30.12.2006, p. 1), brings all the research-related EU initiatives together under one roof and plays a crucial role in achieving the goals of growth, competitiveness and employment. It is also a key pillar for the European Research Area.

⁶ These include the balance sheet and the statement of financial performance, the cash-flow table, the statement of changes in net assets, a summary of the significant accounting policies and other explanatory notes.

⁷ These comprise the reports on implementation of the budget, a summary of budgetary principles and other explanatory notes.

- (b) the legality and regularity of the transactions underlying those accounts.

The management's responsibility

7. In accordance with Articles 16 and 22 of Commission Delegated Regulation (EU) No 110/2014⁸, the management is responsible for the preparation and fair presentation of the annual accounts of the Joint Undertaking and the legality and regularity of the underlying transactions.

- (a) The management's responsibilities in respect of the Joint Undertaking's annual accounts include designing, implementing and maintaining an internal control system relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error, selecting and applying appropriate accounting policies on the basis of the accounting rules adopted by the Commission's accounting officer⁹, and making accounting estimates that are reasonable in the circumstances. The Director approves the annual accounts of the Joint Undertaking after its accounting officer has prepared them on the basis of all available information and established a note to accompany the accounts in which he declares, *inter alia*, that he has reasonable assurance that they present a true and fair view of the financial position of the Joint Undertaking in all material respects.
- (b) The management's responsibilities in respect of the legality and regularity of the underlying transactions and compliance with the principle of sound financial management consist of designing, implementing and maintaining an effective and efficient internal control system comprising adequate supervision and appropriate measures to prevent irregularities and fraud and, if necessary, legal proceedings to recover funds wrongly paid or used.

The auditor's responsibility

8. The Court's responsibility is, on the basis of its audit, to provide the European Parliament and the Council¹⁰ with a statement of assurance as to the reliability of the annual accounts and the legality and regularity of the underlying transactions. The Court conducts its audit in accordance with

⁸ OJ L 38, 7.2.2014, p. 2.

⁹ The accounting rules adopted by the Commission's accounting officer are derived from the International Public Sector Accounting Standards (IPSAS) issued by the International Federation of Accountants or, where relevant, the International Accounting Standards (IAS)/International Financial Reporting Standards (IFRS) issued by the International Accounting Standards Board.

¹⁰ Article 47 of Regulation (EU) No 110/2014.

the IFAC International Standards on Auditing and Codes of Ethics and the INTOSAI International Standards of Supreme Audit Institutions. These standards require the Court to plan and perform the audit to obtain reasonable assurance as to whether the annual accounts of the Joint Undertaking are free from material misstatement and the underlying transactions are legal and regular.

9. The audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and the legality and regularity of the underlying transactions. The procedures selected depend on the auditor's judgement, which is based on an assessment of the risks of material misstatement of the accounts and material non-compliance by the underlying transactions with the requirements in the legal framework of the European Union, whether due to fraud or error. In assessing these risks, the auditor considers any internal controls relevant to the preparation and fair presentation of the accounts, as well as the supervisory and control systems that are implemented to ensure the legality and regularity of underlying transactions, and designs audit procedures that are appropriate in the circumstances. The audit also entails evaluating the appropriateness of accounting policies, the reasonableness of accounting estimates and the overall presentation of the accounts.

10. The Court considers that the audit evidence obtained is sufficient and appropriate to provide a basis for its statement of assurance.

Opinion on the reliability of the accounts

11. In the Court's opinion, the Joint Undertaking's accounts for the period 1 January 2014 to 26 June 2014 present fairly, in all material respects, its financial position as at 26 June 2014 and the results of its operations and its cash flows for the period then ended, in accordance with the provisions of its financial rules and the accounting rules adopted by the Commission's accounting officer.

Basis for a qualified opinion on the legality and regularity of the underlying transactions

12. The Joint Undertaking's *ex-post* audit strategy¹¹, adopted by a Governing Board decision on 18 November 2010, is a key tool¹² for assessing the legality and regularity of the underlying

¹¹ The *ex-post* audit strategy states that the Joint Undertaking "shall seek sufficient information with respect to the *ex-post* audit procedure applied in the ENIAC Member States to perform an assessment of the national procedures with respect to their suitability to provide sufficient assurance with respect to the regularity and the legality of the transactions related to the ENIAC Joint Undertaking projects".

transactions. The payments made in 2014 relating to certificates of acceptance of costs issued by the national funding authorities of the Member States (NFAs) amounted to 14,2 million euro, or 79 % of the total payments.

13. Although the audit of project cost claims has been delegated to the NFAs, the administrative agreements signed with the NFAs do not include practical arrangements for *ex-post* audits.

14. The Joint Undertaking received audit reports from the NFAs covering approximately 76 % (as of April 2015) of the costs related to completed projects. However, the Joint Undertaking did not assess the quality of these audits¹³. The Court performed an assessment of the audit strategies, including audit reports, of three NFAs which indicated that the methodologies used by the NFAs did not allow the Joint Undertaking to calculate a reliable weighted error rate nor a residual error rate. Therefore it is not possible to conclude whether *ex-post* audits are functioning effectively and whether this key control provides sufficient assurance as to the legality and regularity of the underlying transactions.

Qualified opinion on the legality and regularity of the transactions underlying the accounts

15. In the Court's opinion, except for the possible effects of the matter described in the basis for a qualified opinion in paragraphs 12 to 14, the transactions underlying the annual accounts for the financial year ended 26 June 2014 are, in all material respects, legal and regular.

16. The comments which follow do not call the Court's opinions into question.

COMMENTS ON BUDGETARY AND FINANCIAL MANAGEMENT

Implementation of the budget

17. The initial 2014 budget only included commitment appropriations for running costs amounting to 2,3 million euro. The budget does not include commitment appropriations for

¹² Article 12 of Regulation (EC) No 72/2008 states that it "shall ensure that the financial interests of its members are adequately protected by carrying out or commissioning appropriate internal and external controls" and that it "shall carry out on-the-spot checks and financial audits among the recipients of the ENIAC Joint Undertaking's public funding. These checks and audits shall be performed either directly by the ENIAC Joint Undertaking or by ENIAC Member States on its behalf."

¹³ According to the *ex-post* audit strategy adopted by the ENIAC Governing Board, the Joint Undertaking must assess at least once a year whether the information received from the ENIAC Member States provides sufficient assurance as to the regularity and legality of the executed transactions.

operational activities as a consequence of the plans to merge ENIAC and ARTEMIS during 2014 to create ECSEL which will be in charge of the 2014 call. The utilisation rate for administrative commitment appropriations was 43 %. The reason for the low budget implementation is mainly that the merger took place in June while the budget was adopted for the whole year.

Calls for proposals

18. At the time of the merger, the total amount foreseen for the calls for proposals had been committed.

OTHER MATTERS

Legal framework

19. The new Financial Regulation applicable to the general budget of the Union¹⁴ was adopted on 25 October 2012 and took effect from 1 January 2013¹⁵. However, the model financial regulation for public-private partnership bodies referred to in Article 209 of the new Financial Regulation¹⁶ did not enter into force until 8 February 2014. Because of the merger into ECSEL Joint Undertaking, the financial rules of the Joint Undertaking have not been amended.

¹⁴ Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ L 298, 26.10.2012, p. 1).

¹⁵ Article 214 of Regulation No 966/2012 with the exemptions referred to.

¹⁶ Commission Delegated Regulation (EU) No 110/2014.

This Report was adopted by Chamber IV, headed by Mr Milan Martin CVIKL, Member of the Court of Auditors, in Luxembourg at its meeting of 20 October 2015.

For the Court of Auditors

Vítor Manuel da SILVA CALDEIRA

President

ENIAC Joint Undertaking (Brussels)**Competences and activities**

<p>Areas of Union competence deriving from the Treaty <i>(Articles 187 and 188 of the Treaty on the Functioning of the European Union)</i></p>	<p>Decision No 1982/2006/EC of the European Parliament and of the Council of 18 December 2006 concerning the Seventh Framework Programme provides for a Community contribution to the establishment of long-term public-private partnerships in the form of Joint Technology Initiatives which could be implemented through Joint Undertakings within the meaning of Article 187 of the Treaty.</p> <p>Council Regulation (EC) No 72/2008 of 20 December 2007 setting up the ENIAC Joint Undertaking.</p>
<p>Competences of the Joint Undertaking <i>(Council Regulation (EC) No 72/2008)</i></p>	<p><u>Objectives</u></p> <p>The ENIAC Joint Undertaking contributes to the implementation of the Seventh Framework Programme of the European Community for research, technological development and demonstration activities (2007-2013) and the theme "Information and Communication Technologies" of the specific "Cooperation" programme implementing the Seventh Framework Programme (2007-2013) of the European Community for research, technological development and demonstration activities. It shall, in particular:</p> <ul style="list-style-type: none"> - define and implement a research agenda for the development of key competences for nanoelectronics across different application areas in order to strengthen European competitiveness and sustainability and allow the emergence of new markets and societal applications; - support the activities required for the implementation of the research agenda (R&D activities), notably by awarding funding to participants in selected projects following competitive calls for proposals; - promote a public-private partnership aiming at mobilising and pooling Community, national and private efforts, increasing overall R&D investments in the field of nanoelectronics, and fostering collaboration between the public and private sectors; - ensure the efficiency and durability of the JTI on nanoelectronics; - achieve synergy and coordination of European R&D efforts in the field of nanoelectronics including the progressive integration into the ENIAC Joint Undertaking of the related activities in this field currently implemented through intergovernmental R&D schemes (EUREKA).
<p>Governance</p>	<ul style="list-style-type: none"> - The JU's governing body is the Governing Board. The executive team is led by an Executive Director. Industry is represented in the Industry and Research Committee and by the association AENEAS as founding member. The Commission, representing the Union, the Member States and associated countries make up the Public Authorities Board.
<p>Resources available to the Joint Undertaking in 2014</p>	<p>Budget</p> <p>2 356 000,00 euro for commitments</p> <p>76 500 250,00 euro for payments</p>

	Staff at 26 June 2014 15 posts provided for in the establishment plan (7 temporary staff and 8 contract staff), of which 15 posts were occupied; these were allocated to: operational activities (6); administrative tasks (5); mixed tasks (4).
Activities and services provided in 2014	See the ENIAC Joint Undertaking annual activity report for 2014 at www.ecsel.eu

Source: Information supplied by the ENIAC Joint Undertaking.
